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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/293,198	04/16/1999	RAUL RAUDALES	09879/03001	4556

26161 7590 03/24/2003

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EXAMINER

RAGONESE, ANDREA M

ART UNIT	PAPER NUMBER
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3749

DATE MAILED: 03/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/293,198

Applicant(s)

RAUDALES, RAUL

Examiner

Andrea M. Ragonese

Art Unit

3749

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 January 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) 22-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 and 32-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 April 1999 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election with traverse of the requirement for restriction of **claims 1-21** and **32-42** in Paper No. 14, filed January 13, 2003, is acknowledged. The traversal is on the ground(s) that "the restriction is proper only if the inventions are independent and distinct." This is not found persuasive because the Examiner believes that the instant application recites at least two independent and distinct inventions. Therefore, the Examiner respectfully submits that it has not been overlooked that the statute reads "two or more independent and distinct inventions." The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the independently claimed method can be practiced by another materially different apparatus or by hand because the specified process of vegetable product drying by transforming solar energy into heat energy and then exhausting moisture from the drying chamber in the independently claimed method is not a limitation in the independently claimed apparatus. In addition, the search required for **claims 1-21** and **32-42** is not required for **claims 22-31**, causing the search and examination of the entire instant application to be a serious burden on the Examiner. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is still deemed proper and is therefore made **FINAL**.

***Response to Arguments***

2. Applicant's request for reconsideration of the 102(a) rejection **claims 1-21** and **32-42** of the last Office Action is persuasive and, therefore, the 102(a) rejection of **claims 1-21** and **32-42** is withdrawn.

3. Applicant's request for reconsideration of the 102(b) rejection of **claims 32-42** of the last Office Action is persuasive and, therefore, the 102(b) rejection of **claims 32-42** is withdrawn.

4. Examiner would like to reiterate that it has come to the Examiner's attention through the Supplemental Information Disclosure Statement filed by Applicant in Paper No. 3 on May 27, 1999 that Applicant made the invention known to others in printed publications, "Solar/Biomass Coffee Drying Systems" and "Café Solar<sup>TM</sup>," for a presentation to the Special Coffee Association in this or a foreign country in March 1997, which is more than the statutory bar of one year prior to the date of application for the patent in the United States.

5. The record as a whole, in addition to this disclosure of prior art, as stated in the 35 U.S.C. 102(b) rejection of the previous Office Action, dated July 3, 2000, Paper No. 7, gives the Office reason to believe that the apparatus of the instant application was not only described in a printed publication, but also in public use or on sale in this country for at least 48 months prior to application for a patent, which is well outside the statutory limitations as stated in 35 U.S.C. 102(b). These references suggest that Applicant and Assignee had prior knowledge of this invention; therefore, Applicant is required to distinguish the invention as claimed over the "prior art" or public use or on

sale, as noted above, including structural details. Proof must be submitted that the invention for the instant application was **not** described in a printed publication in this or a foreign country or in public use or on sale in this country more than one year prior to application of the invention thereof by applicant for the patent.

***Information Requirement – 37 CFR § 1.105***

6. Applicant and the assignee of this application are required under 37 CFR 1.105 to provide the following information that the examiner has determined is reasonably necessary to the examination of this application. The information is required to enter in the record the art suggested by the Applicant as relevant to this examination in Paper No. 3, PTO-1449, dated May 27, 1999.

7. Some questions have not been satisfactorily resolved with each response by the Applicant, and consequently raise doubt as to patentability of the instant application. The submitted printed publications, "Solar/Biomass Coffee Drying Systems" and "Café Solar<sup>TM</sup>," were documented on PTO-1449, dated May 27, 1999, as publications used for a presentation to the Special Coffee Association in March 1997. Was this conference held in the United States? Was the apparatus of the instant application offered for sale in the United States prior to, during or subsequent to this presentation? Was there any additional material distributed during this presentation regarding the apparatus of the instant application? Until such distinction is made and/or proof provided to the Examiner, the 102(b) rejection of **claims 1-21**, as described in the previous Office Actions is hereby repeated and still stands.

8. While the Examiner appreciates the citation of the Manual of Patent Examining Procedure (MPEP) § 704.10 by the Applicant, the Examiner would like to call the Applicant's attention to MPEP § 704.11(a) which provides a list of specific examples of reasonably required information under 37 CFR 1.105 for examination of any application. This information has been deemed reasonably necessary by the Office to properly examine or treat a matter in this pending application.

9. In responding to those requirements that require copies of documents, where the document is a bound text or a single article over 50 pages, the requirement may be met by providing copies of those pages that provide the particular subject matter indicated in the requirement, or where such subject matter is not indicated, the subject matter found in applicant's disclosure.

10. The fee and certification requirements of 37 CFR 1.97 are waived for those documents submitted in reply to this requirement. This waiver extends only to those documents within the scope of this requirement under 37 CFR 1.105 that are included in the applicant's first complete communication responding to this requirement. Any supplemental replies subsequent to the first communication responding to this requirement and any information disclosures beyond the scope of this requirement under 37 CFR 1.105 are subject to the fee and certification requirements of 37 CFR 1.97.

11. The applicant is reminded that the reply to this requirement must be made with candor and good faith under 37 CFR 1.56. Where the applicant does not have or cannot readily obtain an item of required information, a statement that the item is unknown or cannot be readily obtained will be accepted as a complete reply to the requirement for that item.

12. Applicant is reminded that replies to requirements for information must be complete and filed within the time period set including any extensions. Failure to reply within the time period set will result in the abandonment of this application. See MPEP § 704.12.

### ***Drawings***

13. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: element **22** in Figure 1; element **118** in Figure 3; and element **410** in Figure 10. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

14. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: elements **256**, **258**, **260** on page 18 and element **426** on page 20. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

15. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "**76**" and "**82**" have both been used to designate a heat exchanger in Figure 3. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

16. The drawings are objected to under 37 CFR 1.84(q) due to the use of improper reference character notation. Lead lines are required for each reference character except for those which indicate the surface or cross section on which they are placed. Such a reference character must be underlined to make it clear that a lead line has not been left out by mistake. The following reference characters require underlining to satisfy this requirement: element **202** in Figure 8 and element **308** in Figure 9. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.



***Specification***

17. The disclosure is objected to because reference characters "**240**" and "**540**" have both been used to designate support framework on page 21. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

18. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

19. **Claims 1-21** are rejected under 35 U.S.C. 102(b) as being unpatentable based upon the printed publication, "Solar/Biomass Coffee Drying Systems" (hereafter referred to as Publication #1) or "Café Solar™" (hereafter referred to as Publication #2), submitted with Supplemental IDS as Paper No. 3 on May 27, 1999, that described the invention in this country more than one year prior to the date of application for patent in the United States. The date, as shown on the publications and the Supplemental IDS, is March 1997, which is more than one year prior to April 16, 1999, which is the application date of the instant application. In order to accurately refer to each element in the pictures for this rejection, the Examiner has provided a highlighted, color copy of the references with corresponding numerals for reference. Publication #1 or Publication #2 discloses a dryer for drying vegetable product, as shown in Figure 1, comprising:

- a thermal collector **1** constructed and arranged to convert solar energy to heat energy;

- a heat transfer system **2**;
- a housing having a drying chamber **3**;
- wherein said heat transfer system **4** is in thermal communication with both said thermal collector **1** and said drying chamber **3** such that heat is able to move from said thermal collector **1** to said drying chamber **3**.

20. **Claims 1-21** are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Mullin et al. (US 4,099,338). Mullin et al. discloses a dryer for drying vegetable product **26**, as shown in Figure 1, comprising:

- a thermal collector **12** constructed and arranged to convert solar energy to heat energy;
- a heat transfer system **16**;
- a housing having a drying chamber **24**;
- wherein said heat transfer system **16** is in thermal communication with both said thermal collector **12** and said drying chamber **24** such that heat is able to move from said thermal collector **12** to said drying chamber **24**.

21. **Claims 32-42** are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Crossley (US 3,566,770). Crossley discloses a dryer for drying vegetable product comprising:

- a housing **26** defining a cylindrical drying chamber **22**, the housing **26** having an outer wall extending around the drying chamber **22**, the outer wall defining a plurality of perforations for intaking and exhausting fluid (column 2, lines 13-19);

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- an infuser **62** adjacent to the perforations for infusing fluid through the perforations (column 2, lines 58-79); and
- wherein the housing **26** is constructed and arranged to rotate relative to the infuser **62** (column 2, lines 27-37).

**Conclusion**

22. This Office action has an attached requirement for information under 37 CFR 1.105. A complete reply to this Office action must include a complete reply to the attached requirement for information. The time period for reply to the attached requirement coincides with the time period for reply to this Office action.

23. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Andrea M. Ragonese** whose telephone number is **(703) 306-4055**. The examiner can normally be reached on Monday through Thursday from 7 am until 5:30 pm ET.

24. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira S. Lazarus can be reached on (703) 308-1935. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

25. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0861.

amr  
March 21, 2003

RAB

  
Ira S. Lazarus  
Supervisory Patent Examiner  
Group 3700